

*per art*

(18)  
2/7/01  
18m

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY C. BRENEISER,  
Plaintiff,

v.

CHUCK BAUER, and  
CLEM NAYLOR,  
Defendants

: CIVIL NO: 1:CV-00-0278  
:  
: (Judge Caldwell)  
:  
: (Magistrate Judge Smyser)  
:  
:  
:

FILED  
HARRISBURG, PA

FEB 6 - 2001

REPORT AND RECOMMENDATION

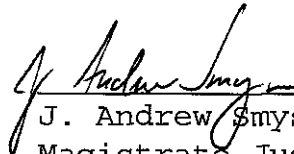
MARY E. D'ANDREA, CLERK  
PER *[Signature]* DEPUTY CLERK

The plaintiff, a prisoner proceeding *pro se* and *in forma pauperis*, commenced this 42 U.S.C. § 1983 action on February 15, 2000. By an Order dated April 4, 2000, the claims against defendants Aliano, Brennan and Gregory were dismissed. The only remaining claim is an Eighth Amendment excessive force claim against defendants Bauer and Naylor.

A case management order was issued on April 10, 2000. The Case Management Order established a discovery deadline of October 10, 2000 and a dispositive motions deadline of August 10, 2000.

The discovery period has closed and the time for filing dispositive motions has passed. No motions are pending.

It is recommended that this case be listed for trial.

  
J. Andrew Smyser  
Magistrate Judge

DATED: February 6, 2001.

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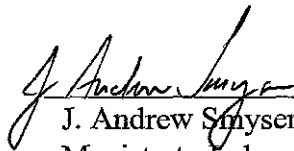
FEB 6 - 2001

NOTICE

MARY E. D'ANDREA, CLERK  
PER 918 DEPUTY CLERK

Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3 of the Rules of Court, M.D.Pa., which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. §636(b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition **within ten (10) days** after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

  
J. Andrew Smyser  
Magistrate Judge

Dated: February 6, 2001.

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

February 6, 2001

Re: 1:00-cv-00278 Breneiser v. Aliano

True and correct copies of the attached were mailed by the clerk  
to the following:

Anthony C. Breneiser  
CTY-SUS  
Susquehanna County Prison  
7 Ellsworth Dr.  
Montrose, PA 18801

Michael J. Donohue, Esq.  
Kreder, Brooks, Hailstone & Ludwig  
P.O. Box 956  
220 Penn Ave.  
Suite 200  
Scranton, PA 18501

cc:

Judge	( )	Pro Se Law Clerk
Magistrate Judge	( )	INS
U.S. Marshal	( )	Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( ) DA of County ( ) Respondents ( )
Bankruptcy Court	( )	
Other <u>Spay du</u>	( )	

MARY E. D'ANDREA, Clerk

DATE: 2-6-01

BY: GRV  
Deputy Clerk